UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,940	03/30/2004	William I. Chang	M-15350 US	7479

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EXAMINER
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ART UNIT	PAPER NUMBER
2169	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/813,940	CHANG, WILLIAM I.
Office Action Summary	Examiner	Art Unit	
	Jacob F. Bétit	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>06 June 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-26</u> is/are pending in the application.

    4a) Of the above claim(s) <u>3-7 and 16-20</u> is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,2,8-15 and 21-26</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 6 June 2008 has been entered.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

3.   Claims 11 and 26 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. Claims 11 and 26 contain the phrase "from time to time," which is indefinite.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1-2, 8-10, 14-15, and 21-23 are rejected under 35 U.S.C. 103(a) as being obvious

over "A Distributed Event Logging System" published 12/03/2001, known hereafter as Jaiswal,

in view of "NetLogger: A Toolkit for Distributed System Performance Analysis" published in

July 1998, known hereafter as Gunter and xntpd(1Mtcp), published in 1999, known hereafter as

xntpd.

      Claims 1 and 14 are rejected for the following reasons:

Jaiswal teaches:

 A distributed system comprising: <u>a plurality of cooperative processes running on a plurality of</u>

<u>processors of a computer network to accomplish a distributed transaction,</u>(Page 1 para 2) <u>each</u>

<u>process logging in a local resource records of execution of the distributed transaction by the</u>

<u>process on its processor; and a search engine running on each of the plurality of</u>

<u>processors,</u>(Section 5 para 2) <u>each search engine retrieving corresponding records of execution in</u>

<u>response to a query regarding the distributed transaction</u>(Section 6).

Jaiswal Fails to expressly disclose:

<u>a system synchronizer sending a timing message to be logged to the plurality of cooperative</u>

<u>processes;</u>

However, this limitation would have been obvious in view of Gunter which uses NTP and xntpd

to synchronize the time of all of the servers in a distributed processing system, and xntpd which

teaches the logging of the periodic timing messages received by servers as part of the xntpd

daemon used (monitoring option).

 Gunter:

2.1 Clock Synchronization: NTP

To analyze a network-based system using timestamps, the clocks of all systems involved must be synchronized. This can be achieved by using the Network Time Protocol (NTP) [10]. By installing a GPS-based NTP server on each subnet of the distributed system, and running the *xntpd* daemon on each host, all host clocks can be synchronized to within about 0.25 ms of each other. It has been our experience that most application-significant events can be accurately characterized by timestamps that are accurate to about 1 ms, well within NTP's tolerances. If the closest time source is several IP router hops away, NTP accuracy will be somewhat less, but probably still accurate enough for many types of analysis. The NTP web site[2] has a list of public NTP servers that one may be able to connect and synchronize with.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to

include these features, as they provide more accurate timing to provide more accurate analysis.

Claims 2 and 15 are rejected for the following reasons:

A distributed system as in claim 1, wherein the query is issued to the processors as a distributed

query.(Section 6)

Claims 8 and 21 are rejected for the following reasons:

A distributed system as in claim 1, wherein the query is issued from a client which merges the

results received from search engines responding to the query. (Section 6, Paras 2 and 4)

Claims 9 and 22 are rejected for the following reasons

A distributed system as in claim 8, wherein the client applies program rules on the merged

results to determine correct operation of the distributed system. (Section 1 para 2)

Claims 10 and 23 are rejected for the following reasons:

A distributed system as in claim 1, wherein each search engine generates indices to the records

of execution.(Section 4)

6.   Claims 11-12 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Jaiswel in view of "NetLogger: A Toolkit for Distributed System Performance Analysis"

published in July 1998, known hereafter as Gunter and xntpd(1Mtcp), published in 1999, known

hereafter as xntpd in view of US 6647517 files Apr. 27, 2000, known hereafter as Dickey.

Claims 11-12, and 24-25 are rejected as Jaiswel as modified, teaches periodically backing

up log files and stating a new file in section 4 para 2, however Jaiswel as modified, fails to teach

how the logs are stored. Dickey col 2 lines 1-14 teaches storing initially in memory, Col 5 lines

31-39 teaches offloading to a disk storage. Thus it would have been obvious to one of ordinary

skill in the art at the time of the invention to include these features, as using memory is fast, and

using disk memory for old or backup data is cheaper.

7.   Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaiswel

in view of "NetLogger: A Toolkit for Distributed System Performance Analysis" published in

July 1998, known hereafter as Gunter and xntpd(1Mtcp), published in 1999, known hereafter as

xntpd in view of US 6647517 files Apr. 27, 2000, known hereafter as Dickey in further view of

US 6330570, filed Feb 26, 1999 known hereafter as Crighton or US 6,618,822 filed Jan 3, 2000

known hereafter as Loaiza.

　　　　Jaiswel as modified, teaches the claims upon which claims 13 and 26 are dependent, but

fail to expressly disclose the merger of the indices in memory and in the disk storage. This is

taught in Crighton Col 6 lines 40-48 which teaches an append type backup, by appending in this

manner would cause the current file (the one stored in memory in this case) to be appended (and

thus merged with) to the backup cope(the indices on the disk) Thus, it would have been obvious

to one of ordinary skill in the art at the time of the invention to add this feature do to the

advantage of providing a backup contains all previous log data) In the alternative, Loaiza also

teaches this limitation as it teaches querying ranges of time in col 16 lines 1-14, thus in the

instance were the range included both to backup and the current file the two would be merged as

query results are merged as discussed in claim 8. Thus it would have been obvious to one of

ordinary skill in the art at the time of the invention to include this feature to provide the

advantage of narrowing the search to a date range.

Response to Arguments

8.　　　　Applicant's arguments filed 6 June 2008 have been fully considered but they are not

persuasive.

　　　　It is noted that the applicant states, "The Examiner rejected Claims 1-2, 8-10, 14-15 and

21-23 under 35 U.S.C. § 102(b) as being anticipated by the article "A Distributed Event Logging

System" ("Jaiswal"), in view of the article "Netlogger: a Toolkit for Distributed System

Performance Analysis" ("Gunter") and the description for xntpd (1Mtcp) ("xntpd"). However,

these claims are rejected under 35 U.S.C. 103(a) as being obvious in view of the cited references.

In response to the applicant's arguments that Jaiswal does not teach logging "records of

execution of distributed transactions", the arguments have been fully considered, but are not

deemed persuasive. It is noted that the applicant's characterization of Jaiswal as simply "logging

system performance data" appears to be incorrect. The second paragraph of Jaiswal says the log

can be used for monitoring and troubleshooting and to deter and detect attempts to break into the

system. Further, section 4 of Jaiswal goes into what is logged in the system including a

timestamp, process ID (PID), user, host, process, and message. All of this information is logged

and capable of being queried. The bottom of page 4 gives an example of some transactions that

have been logged in the log file. In the second paragraph of section 5, an example query is put

forth that is a query for all logs generated by the apache application. Therefore, it is believed

that Jaiswal does in fact teach log records of the execution of distributed transactions.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The

examiner can normally be reached on Monday through Friday 10:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

jfb
17 Aug 2008

/Tony Mahmoudi/
Supervisory Patent Examiner, Art Unit 2169